IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

Bail Appl..No. 4424 of 2007()

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CRIME NO.522/07 OF KALADY POLICE STSATION

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PETITIONER : ACCUSED:

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ELDHOSE.P.K., AGED 32 YEARS,
S/O.KURIAKOSE, POMACKAL HOUSE,
MULAMKUZHY, MALAYATTOOR, KALADY.

BY ADV. SRI.S.RAJEEV

RESPONDENTS: COMPLAINANT:

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STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM. (CRIME NO. 522/07 OF 2007 OF KALADY
POLICE STATION).

BY P.P. SRI. P. RAVINDRA BABU

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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B.A.No. 4424 of 2007

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Dated this the 20th day of July, 2007

**O R D E R**

Application for anticipatory bail. The petitioner faces allegations, inter alia, under Section 304 I.P.C. The crux of the allegations against the petitioner is that he, a driver, drove his vehicle, a stage carriage, in such a dangerous manner that it ultimately hit against a pedestrian, leading to his eventual death. It is the case of the prosecution that the act was so gross that the petitioner must be imputed with knowledge of the consequences of the offence. It does not fall under Section 304A I.P.C., but fall under Section 304 I.P.C. according to the prosecution.

2. The learned counsel for the petitioner submits that unnecessarily exaggerated and grave allegations have been raised against the petitioner with the sole intention of vexing him and to ensure that he does not get bail, which he is entitled to claim as of right, if the allegation is made properly under Section 304A I.P.C.

3. The learned Prosecutor opposes the application. I have been taken through the order passed by the learned Sessions Judge, who turned down the prayer for anticipatory bail. At the stage of

considering an application for anticipatory bail meticulous evaluation of rival contentions and entering a finding on all the nuances is not necessary. I must always remind myself of the nature, quality and contours of the jurisdiction of this Court under Section 438 Cr.P.C. Such extra ordinary equitable discretion is to be invoked only in the interests of justice when the court is satisfied that the invocation of the powers of arrest are about to be misused with oblique and questionable motives. In the facts and circumstances of this case, I am not certainly persuaded to agree that this is a fit case where such powers can or ought to be invoked. This, I am satisfied, is a fit case where the petitioner must appear before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. This application is hence dismissed. Needless to say, if the petitioner surrenders before the Investigating Officer or the learned Magistrate having jurisdiction and applies for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

**(R. BASANT)**
Judge

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